

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

THE ESTATE OF DAVID J. BOSHEA,
Plaintiff,

v.

COMPASS MARKETING, INC.,
Defendant.

Civil No. ELH-21-309

**DEFENDANT COMPASS MARKETING, INC.’S MOTION TO RESCIND
MARCH 17, 2025 ORDER**

Defendant Compass Marketing, Inc. (“Compass Marketing”), by and through its undersigned counsel, hereby moves to rescind the Court’s March 17, 2025 Order (ECF 322), which substituted Ashley Boshea, administrator of the Estate of David John Bosha, in the place of David J. Boshea as the Plaintiff in this case. In support, Compass Marketing states as follows:

1. Former Plaintiff David J. Boshea (“Boshea”) passed away on January 28, 2025.
2. On March 17, 2025, counsel for Boshea filed a “Suggestion of Death on the Record Under Rule 25(a)(1) and Motion for Substitution of Party” (ECF 310), in which he requested, pursuant to Rule 25(a) of the Federal Rules of Civil Procedure, that “‘Ashley Boshea, administrator of the Estate of David John Boshea, Deceased’ be substituted in place of ‘David John Boshea’ as plaintiff in this action, so that Decedent’s claims survive, and the action on her behalf may proceed.” *See* ECF 310.
3. On March 17, 2025 (docketed March 18, 2025), the Court granted the Motion and Ashley Boshea, as administrator of the Estate of David John Boshea (the “Estate”) became the Plaintiff in this case, “[p]rovided, however, that the defendant by March 25, 2025 may move to rescind this Order as improvidently granted.” *See* ECF 322.

4. Following the Court's Order, on Saturday March 22, 2025 at 2:42 PM, counsel for Compass Marketing emailed counsel for Plaintiff the following:

Greg:

We appreciate you sending the power of attorney dated March 19 that Ashely Boshea signed to appoint Julie Boshea as attorney-in-fact for the Estate of David Boshea, but my client was looking to receive the documents filed with the appropriate circuit court (presumably DuPage County) that opened the Estate, as well as the probate judge order appointing Ashley Boshea as the Administrator. Please forward that documentation.

Thank you,
Stephen

See Exhibit 1 (Email from S. Stern to G. Jordan dated March 22, 2025 at 2:42 PM).

5. In response, counsel for the Plaintiff answered on Saturday, March 22, 2025, at 8:58 PM, provided the following non-response to Compass Marketing's request:

Stephen,

I do not know why you expect me to believe your client is serious about settling.

See Exhibit 1 (Email from G. Jordan to S. Stern dated March 22, 2025 at 8:58 PM)

6. Having not received documentation confirming that Ashley Boshea has in fact been appointed as the administrator of the Estate, on Sunday, March 23, 2025, counsel for Compass Marketing emailed Mr. Jordan:

To the contrary, my client and I have been very serious about settling, and believe it is in your clients' best interests to do so as well.

In any event, this request is not about our ongoing settlement discussions and I would appreciate it if you could forward the requested estate and representative documentation.

See Exhibit 1 (Email from S. Stern to G. Jordan dated March 23, 2025 at 8:48 PM).

7. On Monday, March 24, 2025, at 8:57 AM, counsel for the Plaintiff curtly responded to the email, "Actions mean something. Words don't matter." Again, counsel for the Plaintiff failed to send the requested documents to Compass Marketing verifying that an estate had been

opened in Illinois and that Ashley Boshea had been appointed the administrator of the Estate. *See* Exhibit 1 (Email from G. Jordan to S. Stern dated March 24, 2025 at 8:57 AM).

8. In response to the email, counsel for Compass Marketing once again emailed counsel for the Plaintiff on March 24, 2025 at 1:46 PM:

Greg:

We are asking politely, please forward the documents establishing the Estate of David Boshea, as well as the court's order appointing Ashley Boshea as the Estate's Independent Administrator. Please forward these documents by 5:00 pm CST today.

Thank you,
Stephen

See Exhibit 1 (Email from S. Stern to G. Jordan dated March 24, 2025 at 1:46 PM).

9. Counsel for the Plaintiff again did not provide the requested information and did not even respond to the March 24 email.

10. Utilizing Will County, Illinois' iPublic™ Case Search (<https://ipublic.il12th.org/>), Compass Marketing has been able to determine that initial filings were made on March 21, 2025 to open an estate for Boshea, and Ashley Boshea has not been named the "Administrator" of the Estate at this time. *See* Exhibit 2 (Docket Entries).¹

11. Undersigned counsel called the clerk's office of the Will County Court this afternoon (March 25) to check on the status of the Estate and learned that no administrator had been appointed yet.

12. Because there is no "Administrator" as represented by counsel for the Estate, the proper party to this lawsuit has not been properly substituted, and, thus, the Court should rescind its March 17, 2025 Order substituting parties as improvidently granted.

¹These court filings in Illinois were made four days after the Plaintiff asked this Court to substitute parties and after the Plaintiff submitted its pretrial filings to this Court on March 17, 2025. *See* ECF 317, 318, 319, 320, and 321.

WHEREFORE, for the foregoing reasons, the Court should rescind its March 17, 2025 Order.

Dated: March 25, 2025

Respectfully submitted,

/s/Stephen B. Stern

Stephen B. Stern, Bar No.: 25335

Shannon M. Hayden, Bar No.: 30380

KAGAN STERN MARINELLO & BEARD, LLC

238 West Street

Annapolis, Maryland 21401

(Phone): (410) 216-7900

(Fax): (410) 705-0836

Email: stern@kaganstern.com

Counsel for Defendant

Compass Marketing, Inc.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of March, 2025, the foregoing Defendant Compass Marketing, Inc.'s Motion to Rescind March 17, 2025 Order was served via the CM/ECF system on the following counsel of record:

Thomas J. Gagliardo
Gilbert Employment Law, PC
1100 Wayne Avenue, Suite 900
Silver Spring, Maryland 20910
Email: tgagliardo@gelawyer.com

Gregory J. Jordan
Mark Zito
Jordan & Zito, LLC
350 N. LaSalle Drive, Suite 1100
Chicago, Illinois 60654
Email: gjordan@jz-llc.com

Attorneys for Plaintiff
David Boshea

/s/Stephen B. Stern
Stephen B. Stern